

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 3:07-CR-158
)	(Phillips / Guyton)
DONTAE PAUL SMITH,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court pursuant to defendant Dontae Paul Smith's Motion to Suppress Evidence [Doc. 14]. All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. On April 15, 2008, this Court conducted an evidentiary hearing on the merits of Mr. Smith's Motion to Suppress Evidence [Doc. 14]. On May 14, 2008, Mr. Smith submitted a Post-Suppression Hearing Brief [Doc. 25] in support of his position. On the same date, the United States filed a Post-Hearing Response to Defendant's Motion to Suppress Evidence [Doc. 26]. On May 21, 2008, Mr. Smith replied to the government's submission, [Doc. 27].

After review of the record, arguments of the parties and consideration of the facts and circumstances surrounding the events in question, the Court found that a complete and just determination of the suppression issues cannot be reached without clarification of the parties' respective positions on a number of specific issues. [Doc. 28] Accordingly, on June 25, 2008, the

Court issued an order directing the parties to address these issues, listed in the body of the order.

On July 3, 2008, Mr. Smith filed a Motion to Reconsider the order requesting clarification. [Doc. 29]. Mr. Smith does not object to oral argument and additional briefing of the issues, but does object to the evidence in the record being re-opened for additional witnesses and proof. It was not the Court's intention to re-open the presentation of evidence. The order's language should *only* be read to apply to supplementation of the evidence in the record by way of oral argument and briefing. The evidentiary record before the Court includes two in-cruiser recordings with audio recording of the police officers wearing microphones and portions of statements made by the several other officers at the scene, as well as the defendant and at least four other people. No party has asked that the proof in the case be supplemented and the Court does not find cause to do so.

Mr. Smith's Motion to Reconsider Memorandum and Order [Doc. 29] is **DENIED** as moot, as the Court has herein clarified that it will receive only oral argument and briefing. The parties should rely on the evidence already in the record in their oral argument and any briefing they wish to submit.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge